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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH

6 NANCY HADBAVNY,

7 Plaintiff,

8 v.

9 LEGACY HEALTH SYSTEM CPC, LLC, an
10 Oregon corporation, and LEGACY HEALTH, a
11 domestic non-profit corporation,

12 Defendants.

Case No. 14CV12761

SUMMONS

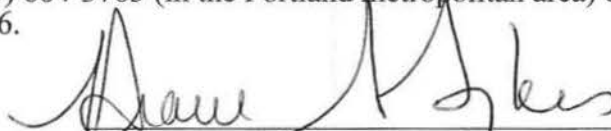
13
14 To: Legacy Health System CPC, LLC, c/o Robert DeWitt, Legal Services Dept., 1919
15 NW Lovejoy Street, Portland, Oregon 97209.

16 You are hereby required to appear and defend the Complaint filed against you in this case
17 within 30 days from the date of the service of this summons upon you. If you fail to appear and
18 defend, the plaintiff will apply to the court for the relief demanded in the Complaint.

19
20 NOTICE TO DEFENDANT:
21 READ THESE PAPERS CAREFULLY!

22 You must "appear" in this case or the other side will win automatically. To "appear" you
23 must file with the court a legal document called a "motion," or "answer." The "motion" or
24 "answer" must be given to the court clerk or administrator within 30 days along with the required
25 filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the
26 plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions, you should see an attorney immediately. If you need help in
finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at
www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-
free elsewhere in Oregon at (800) 452-7636.



Diane S. Sykes #980990
Diane S. Sykes, Attorney at Law, P.C.
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Trial Attorney for Plaintiff

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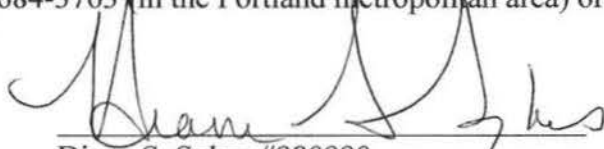
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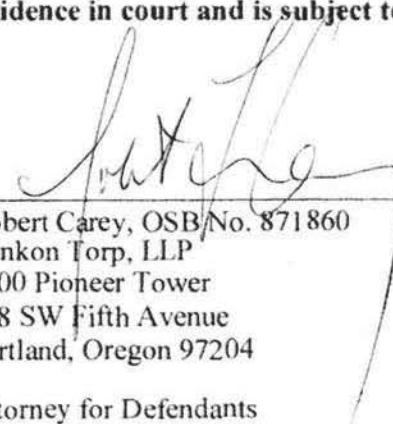
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ACCEPTANCE OF SERVICE

13 I, Robert Carey, do hereby certify that I am an attorney licensed to practice law in
14 Oregon, that I represent the defendants Legacy Health System CPC, LLC and Legacy Health
15 with respect to this matter, and that I am authorized to, and do hereby accept service of
16 Complaint and Summons on behalf of defendants Legacy Health System CPC, LLC and Legacy
17 Health.

18 **I hereby declare that the above statement is true to the best of my knowledge and
19 belief, and that I understand it is made for use as evidence in court and is subject to penalty
20 for perjury.**

21 DATED this 1st day of October, 2014.


Robert Carey, OSB No. 871860
Tonkon Torp, LLP
1600 Pioneer Tower
888 SW Fifth Avenue
Portland, Oregon 97204

Attorney for Defendants

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25 ge 1 – ACCEPTANCE OF SERVICE

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DIANE S. SYKES, Attorney at Law, P.C.
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503/504-7176
diane@dianesykeslaw.com

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Case No.

**COMPLAINT FOR DECLARATORY
RELIEF AND DAMAGES**

Wage Claims, pursuant to the Fair Labor
Standards Act (FLSA) and Oregon Wage
Claim Laws, and Breach of Contract

CLAIMS NOT SUBJECT TO MANDATORY
ARBITRATION

Amount Claimed: \$171,799.00

JURY TRIAL DEMANDED

(Fee Authority ORS 21.160(1)(c))

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19 Plaintiff Nancy Hadbavny, by her attorney, alleges:

20 **THE PARTIES**

21 1.

22 Plaintiff, an Intensive Care Unit (ICU) nurse, has been employed by defendants in
23 Portland, Oregon for over 40 years.

24
25 ///

8.

Prior to and after the introduction of the electronic charting systems, plaintiff frequently stayed after her shift to thoroughly complete her medical charting in order to facilitate a smooth transition to the next shift of staff.

9.

During the period of 2008 to 2013, defendants, its managers and supervisors were aware of plaintiff's practice of clocking out from her shift and continuing to work to complete her medical charting but failed to advise her that her regular and overtime hours spent charting were compensable time.

10.

Despite a written demand for wages to defendant on August 25, 2014, defendants have failed to pay plaintiff for unpaid regular and overtime wages for work performed by plaintiff.

FIRST CLAIM FOR RELIEF

Failure to Pay Overtime Wages: ORS 653.261

11.

Plaintiff realleges and incorporates paragraphs 1-10 as if fully stated herein.

12.

Defendants failed to pay plaintiff one and one-half times her hourly rate of pay for all hours worked over 40 hours in a calendar week.

13.

Pursuant to ORS 653.261(1), plaintiff seeks unpaid overtime wages in the amount of \$20,323.39.

14.

Pursuant to ORS 652.150, plaintiff seeks civil penalties of 8 hours multiplied by plaintiff's hourly rate times 30 days.

15.

Pursuant to ORS 653.055, plaintiff is entitled to her reasonable attorneys' fees.

SECOND CLAIM FOR RELIEF

Failure to Pay Regular Hourly Wages: ORS 652.160

16.

Plaintiff realleges and incorporate paragraphs 1-10 and 14-15 as if fully stated herein.

17.

Defendants failed to pay plaintiff all wages due and not in dispute.

18.

Pursuant to ORS 652.160, plaintiff seeks all regular hourly wages, currently due and owing, in the amount of \$68,029.99.

19.

Pursuant to ORS 652.200(1), plaintiff is entitled to her reasonable attorneys' fees.

THIRD CLAIM FOR RELIEF

Failure to Pay Overtime, pursuant to 29 U.S.C. § 207(a)(1)

20.

Plaintiff realleges and incorporate paragraphs 1-12 as if fully stated herein.

///

///

21.

Defendants failed to pay plaintiff, at her regular rate of pay, for all hours worked over 40 hours in a calendar workweek.

22.

Defendants' failure to pay overtime wages was willful.

23.

Pursuant to 29 U.S.C. § 207(a)(1), plaintiff seeks unpaid overtime wages in the amount of \$45,930.28.

24.

Pursuant to 29 U.S.C. § 216(b), plaintiff seeks an equal amount in liquidated damages.

25.

Pursuant to 29 U.S.C. § 216(b), plaintiff is entitled to reasonable attorneys' fees and costs.

FOURTH CLAIM FOR RELIEF

(Breach of Contract)

26.

Plaintiff realleges and incorporates paragraphs 1-13, 17-18 and 21-22 as if fully stated herein.

27.

Plaintiff Hadbavny entered into a contractual agreement with Legacy Health to perform the services of an ICU nurse at a specified rate of regular and overtime pay.

///

28.

Defendants were aware that plaintiff was working hours for which she was not being compensated.

29.

Defendants Legacy Health have breached the agreement by failing to pay plaintiff the contractually-established rate of regular and overtime.

30.

Plaintiff has been damaged as a direct and proximate result of Legacy Health's breach of employment agreement.

31.

Plaintiff is entitled to unpaid regular and overtime wages, in the amount of \$113,960.27, for defendants' breach of the employment agreement.

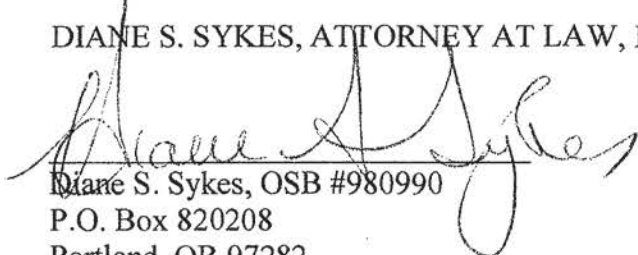
WHEREFORE, Plaintiff prays for judgment in her favor and against defendants as follows:

1. On her FIRST claim, unpaid overtime wages, under Oregon law, in the amount of \$20,323.39, plus statutory damages of thirty days' wages;
2. On her SECOND claim, unpaid regular wages, under Oregon law, in the amount of \$68,029.99;
3. On her THIRD claim, unpaid overtime wages, pursuant to the federal Fair Labor Standards Act, in the amount of \$45,930.28, plus liquidated damages in an equal amount;

- 1 4. On her FOURTH claim, Breach of Contract, unpaid regular and overtime wages, in
2 the amount of \$113,960.27;
3 5. Her costs, disbursements, and attorney fees pursuant to ORS 653.055, ORS 653.200
4 and 29 U.S.C. § 216(b); and
5 6. Such other and further relief as the court deems appropriate.

6 DATED this 9th day of September, 2014.

7 DIANE S. SYKES, ATTORNEY AT LAW, P.C.

8 
9 Diane S. Sykes, OSB #980990

10 P.O. Box 820208

11 Portland, OR 97282

12 Tel: (503) 504-7176

13 diane@dianessykeslaw.com

14 Of Attorneys for Plaintiff

15 Trial Attorney: Diane S. Sykes, OSB #980990
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